

REMARKS

I. INTRODUCTION

Applicant respectfully submits that the final Office Action dated July 15, 2009 is defective for many reasons, that some of these defects have been corrected by the Interview Summary dated September 11, 2009, and that many defects remain.

This response is a bona fide attempt to reply to the defective Office Action. **Applicant requests that a non-final Office Action or an allowance be issued promptly because of the remaining defects in the final Office Action dated July 15, 2009 (even after corrections by the Interview Summary).**

For example, **claims 71, 72, and 78 are not explicitly examined** in the body of the final Office Action. Applicant assumes that they are allowed. If claims 71, 72, and 78 are not allowed, then Applicant requests a new non-final Office Action presenting new rejections for these claims.

As a preliminary matter, Applicant appreciates that the Interview Summary: withdraws the Double Patenting rejection due to the terminal disclaimer of record (item 5); withdraws the restriction requirement of January 14, 2009 (item 6); and offers to hold an interview, if the Applicant deems necessary, to discuss proposed after-final claim amendments (item 7).

II. STATUS OF CLAIMS

In reply to the Restriction Requirement dated November 14, 2007, Applicant elected (in the Response dated February 13, 2008) the second group of claims consisting of claims 56-59.

Additionally, Applicant added amended claim 55 and added new claims 60-79 in the Response dated February 13, 2008. The present status of the claims is:

Claim 55 is (Withdrawn-currently amended). These

Claims 60, 65, 70 and 75 are (Withdrawn-new).

Claims 56-59, 61-64, 66-69, 71-74, and 76-79 are (Previously Presented).

All of these status identifiers are set forth in 37 CFR § 1.12(c), or are acceptable alternatives set forth in MPEP 714(II)(C)(E).

Thus, Applicant submits that box 4a of the pending PTO-326 should apparently state that claims 55, 60, 65, 70, and 75 are withdrawn from consideration. Applicant submits that box 5 or box 6 should state that claims 56-59, 61-64, 66-69, 71-74, and 76-79 are allowed or rejected.

Applicant requests a replacement Office Action which clearly states what claims are being withdrawn, and what claims are being allowed or rejected, because the pending Office Action is not correct, and the Interview Summary is not correct.

Claims 71, 72, and 78 are not explicitly examined. Applicant assumes that they are allowed. If claims 71, 72, and 78 are not allowed, then Applicant requests a new non-final Office Action presenting new rejections for these claims.

III. REJECTIONS UNDER 35 U.S.C. § 101

Claims 58 and 73 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter for allegedly failing to “act within or on a statutory apparatus.” Applicant respectfully disagrees.

Applicant submits that claims 58 and 73 is a “process” claims according to the statutory classes of 35 U.S.C. § 101: process, machine, manufacture, or composition of matter. There is no statutory requirement to “act within or on a statutory apparatus.”

Applicants request withdrawal or this rejection, or at least an explanation of what legal theory this rejection is based on, and a definition of what a statutory apparatus is with respect to a rejection of a process claim under 35 U.S.C. § 101.

IV. REJECTIONS UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 56, 57, 61, 62, 71, 76, and 77 are rejected under 35 U.S.C. § 112, first paragraph, for lack of written description.

The Office Action, at page 3, asserts that there is no support in the specification for several of the features from the above listed claims. Applicant respectfully disagrees.

First, the Office Action asserts that there is no support for the central subsystem to perform the steps of comparing the transaction data to the stored transaction data for verification.

Applicant submits that comparing and verification is disclosed at, a minimum, the following portions of the specification and figures. The specification, at page 25, line 31 to page 26, line 8 discloses many details about verification at workstation 604. FIG. 10, element 1008, discloses “PERFORM VERIFICATION OF CHECK.”

Second, the Office Action asserts that there is no support for transferring funds electronically from a payer to a payee bank. Element 1022 of FIG. 10 discloses “TRANSFER FUNDS.” Applicant submits that transferring funds between banks is generally performed

electronically. The specification, at page 39, lines 38-34, discusses these bank transfers in detail.

Third, the Office Action asserts that there is no support for biometric data. However, Applicant submits that FIG. 10, at element 1006, states, “CAPTURE CHECK AND PAYOR’S BIOMETRIC DATA AT PAYEE REMOTE LOCATION.”

Thus, Applicant submits that claims 56, 57, 61, 62, 71, 76, and 77 are fully described in the specification.

V. REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 56, 61, and 62 are rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness with respect to: a) the term “stored transaction data” in claim 56, b) the sources of transaction data (“where the data is obtained from”) in claims 61 and 62, and c) “paper documents” in claims 61 and 62.

- a) The term “stored transaction data” in the fourth feature of claim 56 finds proper antecedent basis in the term “storing the transaction data” in the third feature of claim 56.
- b) Claims 61 and 62 are definite, because a Markush group of sources for transaction data is clearly claimed (“wherein the transaction data is obtained from at least one of electronic transactions from credit cards, electronic transactions from smart cards, electronic transactions from debit cards, transactions from paper documents and transactions from receipts.”)
- c) Additionally, claims 61 and 62 list “transactions from paper documents” as one of the sources of the Markush group, thus dependent claims 61 and 62 properly further limit their base claims with respect to the term “transaction data” in their respective base claims.

Thus, Applicant submits that claims 56, 61, and 62 are definite.

VI. REJECTIONS UNDER 35 U.S.C. § 102(b) (IBM)

Claims 58 and 63 are rejected under 35 U.S.C. § 102(b) as being anticipated by IBM's Proposal to The Federal Reserve Bank of Boston, 1991, "IBM Proposal for FRB Phase Four: Image Archive System," (hereinafter "IBM"). Applicant respectfully disagrees.

Specifically, the Office Action, at page 4, asserts that all of the features of claims 58 and 63 are disclosed by IBM at "section 2.1.1.1.1 and elsewhere, where the scanned check is the capturing step."

Claim 58 recites, in part, "capturing and sending transaction data at at least one remote location; managing and capturing and sending of the transaction data; collecting, processing, sending and storing the transaction data at a central location; managing the collecting, processing, sending and storing of the transaction data; and transmitting the transaction data information among at least one of the at least one remote location and the central location."

IBM, at section 2.1.1.1.1 states merely, "... [p]rocessing includes capture of the document codeline ... [p]rocessed in the IBM 3897 Image Capture Processor and forwarded to the Host (and CIMS) for storage ..." ."

Thus, IBM does not teach or suggest remote locations and central locations, and does not teach or suggest "transmitting the transaction data information among at least one of the at least one remote location and the central location" as required by claim 58.

Dependent claim 63 depends from claim 58, and is patentable for the same reasons, as

well as on its own merits.

VII. REJECTIONS UNDER 35 U.S.C. § 102(b) (Claus)

Claims 58, 59, 61-64, and 66-69 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. 5,559,313 to David M. Claus et al. (hereinafter “Claus”). Applicant respectfully disagrees.

Applicant submits that is improper to reject dependent claims 61, 66, 62, and 67 under 35 U.S.C. § 102(b) when the independent base claim 56 has not been rejected against cited art. Applicants submit that dependent claims 61, 66, 62, and 67 are allowable for, at a minimum, the same reasons as base claim 56, as well as on their own merits.

Claim 58 recites, in part, “capturing and sending transaction data at at least one remote location; managing and capturing and sending of the transaction data; collecting, processing, sending and storing the transaction data at a central location; managing the collecting, processing, sending and storing of the transaction data; and transmitting the transaction data information among at least one of the at least one remote location and the central location.”

The Office Action, at page 5, asserts that all of the features of claim 58 are disclosed by FIG. 8 and the description of FIG. 8 in Claus. However, FIG. 8 the description of FIG. 8 in Claus do not teach or suggest remote locations and central locations, and do not teach or suggest “transmitting the transaction data information among at least one of the at least one remote location and the central location” as required by claim 58.

Further, Applicant submits that independent claim 59 is patentable for reasons similar to

claim 58, as well as on its own merits for additional undisclosed features such as “encrypting subsystem identification information.”

Dependent claims 63, 68, 64, and 69 are patentable for the same reasons as their base claims, as well as on their own merits.

Thus, Applicant submits that claims 58, 59, 61-64, and 66-69 are patentable over Claus.

VIII. REJECTIONS UNDER 35 U.S.C. § 103 (CLAUS)

Claims 73, 74, and 79 are rejected under 35 U.S.C. § 103 over U.S. 5,559,313 to David M. Claus et al. (hereinafter “Claus”). Applicant respectfully disagrees.

Dependent claims 73, 74, and 79 are patentable over Claus for at a minimum, the same reasons as their respective base claims, as well as on their own merits.

IX. DOUBLE PATENTING

The Interview Summary admits that the terminal disclaimer of record overcomes the double patenting rejection for nonstatutory obviousness-type double patenting over US Patent No. 5,910,988.

X. CONCLUSION

For the above reasons, Applicant requests that a non-final Office Action or an allowance be issued promptly because of numerous defects in the final Office Action dated July 15, 2009.

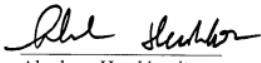
Should the Examiner believe that anything further would be beneficial in order to place this

application in even better condition for examination and allowance, the Examiner is requested to contact Applicant's undersigned representatives at the telephone number listed below. Favorable consideration and early allowance of this application are earnestly solicited.

Please charge any additional fees necessary for consideration of the papers filed herein, to preserve the pendency of this application and refund excess payments to Deposit Account No. 50-2929, referencing Docket Number P43312.

Should the Examiner have any questions or comments, the undersigned may be contacted at the telephone number listed below.

Respectfully submitted,
Claudio R. BALLARD


Abraham Hershkovitz
Abraham Hershkovitz
Reg. No. 45,294

Ed Garcia-Otero
Reg. No. 56,609

October 8, 2009

HERSHKOVITZ & ASSOCIATES, LLC
2845 DUKE STREET
ALEXANDRIA, VA 22314
(703) 370-4800
(703) 370-4809 (FAX)

P43312.A09 Response to Final Office Action; AH/DN/EG